

PATENT APPLICATION  
SERIAL NO.: 10/660,921  
FILING DATE: 09/12/2003  
EXAMINER: Brian L. Swenson

**IN THE DRAWINGS:**

No changes or modifications are requested.

**REMARKS:**

In the Action, the Examiner has rejected Claims 1-11 pursuant to 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner further rejected Claims 1, 6-7 and 10 pursuant to 35 U.S.C. §102(b) as being anticipated by U.S. Patent 1,793,848 (Gill, et al.). The Examiner has also rejected Claims 1, 2 and 4 pursuant to 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 6,302,421 (Lee) in view of U.S. Patent 1,872,142 (Holtzman), Claims 3 and 5 as being unpatentable over Lee in view of Holtzman, and further in view of U.S. Patent Publication No. 2003/0001351 (Schauble), Claim 8 as being unpatentable over Lee in view of Holtzman, and further in view of U.S. Patent No. 6,612,598 (Wu), and Claims 9 and 11 as being unpatentable over Gill, et al. in view of U.S. Patent No. 3,659,871 (Hott). Applicants respectfully traverse each of the enumerated rejections for the following reasons.

**35 U.S.C. §112 REJECTIONS**

The Examiner rejected Claims 1-11 as being indefinite pursuant to 35 U.S.C. §112. More particularly, the Examiner found Claim 1 to have an insufficient antecedent basis for the limitation "said handlebar assembly" and in Claim 11 an insufficient antecedent basis for the limitation "said seat". Claim 1 was amended to include a descriptive recitation of the "handlebar assembly" and Claim 11 was amended to properly depend from Claim 10 rather than Claim 6 as originally listed. Both Claims have been appropriately amended to conform to 35 U.S.C. §112 and, as such, should now be allowable.

**35 U.S.C. §102(b) REJECTIONS**

The Examiner also rejected Claims 1, 6-7 and 10 pursuant to 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 1,793,848 (Gill, et al.), where the limitations of said claims failed to structurally define over the vehicle of Gill, et al.

The vehicle described in Gill, et al. comprises of a footboard, front and rear rolling supports, a handle, and a removable push handle, among other elements. Claim 1 of the present invention has been amended to include "an adjustable handle bar assembly" and a "handle attachment means" that may be "disengaged to stow said handle portion". Gill, et al. does not disclose either element, and thus, the addition of these structural and functional elements to Claim 1 should structurally define the present invention over the vehicle of Gill, et al. In making these amendments, Applicants have moved the structural elements previously recited in Claims 2 and 4 and incorporated those elements into the language of Claim 1 resulting in the CANCELLATION of Claims 2 and 4.

**35 U.S.C. §103(a) REJECTIONS**

The Examiner also rejected pursuant to 35 U.S.C. §103(a) Claims 1-2, 4 as being unpatentable over U.S. Patent 6,302,421 (Lee) in view of U.S. Patent 1,872,142 (Holtzman); Claims 3 and 5 as being unpatentable over Lee in view of Holtzman and in further view of U.S. Patent Publication No. 2003/0001351 (Schauble); Claim 8 as being unpatentable over Lee in view of Holtzman and in further view of U.S. Patent 6,612,598 (Wu); and, Claims 9 and 11 as being unpatentable over Gill, et al. in view of U.S. Patent 3,659,871 (Hott).

The disclosure of Lee pertains to a vehicle that may be self-propelled or pushed from behind, having a disconnectable steering system for converting the vehicle between rider-steerable and externally steerable configurations. In addition, Lee discloses a release lever

(46) for adjusting the angle of the steering shaft (24) and is also used for folding the shaft for storage. By utilizing the release lever and rotating the steering shaft around a pivot, the rider sitting in the seat of the vehicle can change the height of the steering wheel; similar to adjusting the steering wheel in an automobile. This allows the rider to steer the vehicle while adjusting for legroom and hand position comfort, but if rotated to far forward may lose its functionality of enabling the rider to steer from the seated position. The steering wheel and shaft would also lose its functionality if the height adjustment were implemented by use of a telescopic assembly.

The disclosure of Schauble pertains to a two-wheeled scooter having a telescopic handle that may be adjusted for storing. Once the handle is telescopically lowered, the handle and wheel are folded by sliding a pin (45) along an elongated groove (46).

A telescopic height adjustment means would not accomplish the same intended result in Lee as does the rotating height adjustment means. Adjusting for legroom with a telescoping assembly would be limited due to the rider's seated position and a comfortable angle for hand placement would also be limited because different angles closer to or further from the body cannot be selected. Therefore, Lee does not suggest using a telescoping means for adjusting the height of the handle. Furthermore, a telescoping means for the handle cannot be structurally utilized with the steering and peddling mechanism of the vehicle. Pedal assembly (30) is slideably coupled to steering shaft (24) by a sleeve that slides along the steering shaft as the angle of the steering shaft is adjusted to accommodate the size of the rider. The sleeve supports the steering shaft by using the pedal assembly as a base support. The support sleeve would not be able to slide freely in a telescopic implementation of a handle height adjustment. Thus, it would not have been obvious to one having ordinary skill in the art at the time of

invention to include the telescopic adjustment as taught by Schauble in the invention taught by Lee and Holtzman to allow the length of the handle to be adjusted to allow the vehicle to fit a variety of user heights.

Lee also discloses a steering shaft release pin (40), provided to release the steering shaft from the radius arm pivot shaft for storage. After the release pin is pulled, the steering shaft is rotated downward to be stowed. Collapsing the steering shaft for storage does not include collapsing the front wheel or wheels for making the vehicle more compact. In fact, due to the steering mechanism implementing a tie rod (38) and pintle (12A) system a collapsible front wheel or wheels would not be structurally possible in the device. Furthermore, Schauble utilizes an elongated groove, not a pivot point, to fold the handle and wheel over the body of the scooter. Thus, Lee teaches away from combining a collapsible handle and wheel for storage with this apparatus.

Claim 1 of the present invention has been amended to include "*an adjustable handle bar assembly ... said handle portion includes a telescopic height adjustable means for adjusting the position of said handlebar assembly to accommodate differently sized riders*" and a "*handle attachment means being engageable to deploy said handle portion for riding of said scooter or disengageable to stow said handle portion for storage*". The vertical handle extends or retracts telescopically to accommodate the height of the person standing behind the handle without losing any functionality in the steering mechanism. Additionally, the handle is telescopically retracted before collapsing both the handle portion and the front wheels for storage. A release skewer (36) enables the handle portion, mounted to the two front wheels, to rotate about the base portion. The wheels can rotate with the handle when being collapsed because the vehicle is not limited by a tie rod and pintle steering mechanism. In view of this described amendments

and their respective differences from the disclosures of the cited reference patents, it is respectfully submitted that Claim 1 (as amended) is patentably different than the alleged combination, even if such combination could be made to function.

The rejection of Claim 8 being unpatentable over Lee in view of Holtzman, and further in view of U.S. Patent 6,612,598 (Wu) and Claims 9 and 11 being unpatentable over Gill, et al. in view of U.S. Patent 3,659,871 (Hott) are allegedly premised upon hindsight reconstruction which is an impermissible means for forming a rejection under 35 U.S.C. 103(a). Lee does not suggest the telescoping height adjustment means of the present invention, and neither does Holtzman. Wu teaches about a single rear steering bar 4 that is coupled to the steering mechanism of the tricycle by a toothed belt 5 that can be adjusted for height in up to three positions, as shown only in the drawing (Fig. 1) but not described in the Specification to any extent whatsoever. This leaves the reader of Wu with less than a full understanding of whether the invention of the rear steering bar can be adjusted for height by the alleged well-known telescopic adjustment using detent pins, or is usable only for steering the tricycle. The combination of the elements of amended Claim 1, further including the structural limitations of Claim 8, are not fairly taught, suggested or described by the cited patent references and, as such, are believed to be patentably different and should be considered allowable.

In regard to Claims 9 and 11, the Examiner admits that the Gill, et al. reference does not teach the present invention, but in order to properly combine a teaching from another reference one needs at least some suggestion that the combination is intended to meet the criteria for a rejection for obviousness. In this case Gill, et al. does not show or describe either a basket or rear wheel fenders as admitted by the Examiner. Neither does Gill, et al. suggest these structures. The alleged combination of Hoot (which is not understood for the reason that the

basket appears to assume the position of the rider's seat) is impermissible as hindsight reconstruction because of the total lack of any suggestion in the primary reference for the inclusion of the additional element in combination. Thus, for the same reasons as cited above, the combination of amended Claim 1, further including the structural limitations of Claims 9 and 11, are not fairly taught, suggested or described by the cited patent references and, as such, are believed to be patentably different and should be considered allowable.

Therefore, the present invention is not obvious in view of the combination of Lee, which teaches away from the use of a telescopically adjustable handle and a collapsible handle and wheel assembly. Thus, such a use cannot be obvious under 35 U.S.C. 103(a) by looking at Lee in view of Holtzman, or in adding the teachings of Wu, Gill, et al. or Hott for the additional dependent Claims 8, 9 and 11.

**CONCLUSION:**

Applicants respectfully submit that the amendments to the pending claims and the arguments presented herein successfully traverse the 35 U.S.C. §112 rejection of Claims 1-11, the 35 U.S.C. §102(b) rejection of Claims 1, 6-7 and 10, and the 35 U.S.C. §103(a) rejections of Claims 1-5, 8-9 and 11. Reconsideration of the amended claims and allowance of Claims 1-11 is therefore respectfully requested.

Applicants note that the Examiner has indicated that Claims 12-19, as originally submitted, are deemed allowable for the reasons set forth in the Examiner's Statement of Reasons for Allowance appearing on Pgs 6-7 of the Action.

For the reasons set forth above, entry of each of the amendments is respectfully requested. In view of the amendments and the foregoing argument concerning the correctness and applicability of the grounds of rejection set forth by the Examiner in the most recent Office Action, favorable reconsideration of this application and an early NOTICE OF ALLOWANCE is earnestly solicited. The Examiner is invited to telephone the undersigned, Applicants' attorney of record, to facilitate advancement of the present application.

Respectfully submitted,

**MANUS BOYLE, ET AL.**

DATE: September 1, 2005

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